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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,145	10/20/2000	Edmund A. Gress	0001398USU	6653

7590

11/26/2003

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EXAMINER
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HUNTER, ALVIN A

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 11/26/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/693,145

Applicant(s)

GRESS, EDMUND A.

Examiner

Alvin A. Hunter

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3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 21-25, 27-29, 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Bashirzadeh (USPN 5467997).

Bashirzadeh discloses a method of using informational playing cards. The methods comprise of: a) having a deck of informational playing card, b) each player selecting a card from his/her hand, c) selecting a statistical element, and d) the winner being determined by who has the prevailing statistical element (See Abstract and Column 2, lines 11 through 59). The deck of informational playing cards may comprise of categories and sub-categories (See Column 3, lines 63 through 67; and Column 4, lines 1 through 9). Each card also comprises primary printed indicia, which include a picture, and secondary printed indicia, which include a plurality of statistical elements (See Column 6, lines 13 through 37). The prevailing statistical element is determined by the players, in which the prevailing statistical element may be the highest value or the lowest value (See Column 5, lines 1 through 13). It is also noted that a variety of possible games may be played out through the invention. Methods used by Bashirzadeh show the methods of that claim by the applicant. The theme of the game,

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wrestling, and the categories are nothing more than printed matter. See Ex Parte Breslow 192 USPQ 341

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bashirzadeh (USPN 5467997).

Bashirzadeh discloses the above but lacks a method of dropping the selected cards as to tumble end over and land either face up or down. There is no difference in the outcome of the game by the way the cards are presented and is seen as nothing more than a obvious matter of design choice. One having ordinary skill in the art at the time the invention was made to would have expected the method of Bashirzadeh to perform equally as well as that of the applicant because the both determine a winner based on the element or category chosen. Furthermore, the tie breaking method is obvious due to the fact that there are a plurality of statistical elements on the cards in which do not equal each other making it convenient for use. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have a time breaking method by selecting another statistical element in order to utilize its convenience.

3. Claims 32-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bashirzadeh (USPN 5467997) in view of Garfield (USPN 5662332).

Bashirzadeh discloses the above but lacks a method of rating the amount of punishment inflicted on or by a player to another player. Garfield discloses a trade card game providing the utilization of energy allow the player to attack, defend, and modify the effects of other cards (See Abstract). The goal of the game is to reduce the other player life points to a level below one (See Abstract). Recall, Bashirzadeh discloses a method of selecting the statistical element used to determine the winner; therefore, a die is not necessary in order to provide an outcome of the game. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the invention of Garfield to the invention of Bashirzadeh in order to provide an energy decreasing means during game play. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Bashirzadeh in view of Garfield, by adding a die, in order to provide an alternative chance means.

### ***Response to Arguments***

Applicant's arguments with respect to claims 21-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-

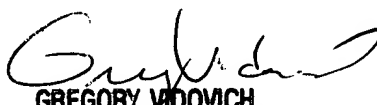
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5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Vidovich, can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Alvin A. Hunter, Jr.

  
GREGORY VDOVICH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700